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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,086	01/16/2002	Geoffry James Wolfe Taylor	017264-0113	6084

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FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/031,086

Applicant(s)

TAYLOR ET AL.

Examiner

Thomas J. Brahan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
2. Claim 5 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "the collar" lacks antecedent basis within the claims.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:  
A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.  
  
Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.  
  
This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.
5. Claims 1, 3, 4, 8, 11 and 12 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Taylor et al (AU 9735291).

6. Claims 1-3, 6, 8, 10 and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ballu. Ballu shows an apparatus for handling grape material including:

- a support structure (12);
- a receptacle (8) for containing grape material having an opening at one end and being rotatable about a pivot connection (50) with the support structure; and
- an actuator (47, 57) for rotating the receptacle in a controlled manner from an upright position in which the grape material may be contained in the receptacle to a tipped position in which the contents of the receptacle may be emptied via the opening.

The frame that grips the containers is a collar, as recited in claim 2. The actuators (47, 57) are hydraulic, as recited in claim 3. The apparatus supports plural receptacles that empty their contents into a common region, as recited in claim 6. The actuators tilt the box in a controlled manner, as recited in claim 8. The material is supplied sequentially from plural receptacles, as recited in claim 10. The receiving receptacle is a press, as recited in claim 11.

7. Claims 1, 3, 6 and 8-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Buck. Buck shows an apparatus for handling grape material including:

- a support structure (15);
- a receptacle for containing grape material having an opening at one end and being rotatable about a pivot connection (29) with the support structure; and
- an actuator (30) for rotating the receptacle in a controlled manner from an upright position in which the grape material may be contained in the receptacle to a tipped position in which the contents of the receptacle may be emptied via the opening.

The actuator (30) is hydraulic, as recited in claim 3. There are plural receptacles, as recited in claims 6 and 10. The extent of the tilting is controlled during emptying the receptacles, see column 4, lines 44-49, as recited in claim 9.

8. Claims 1, 6-10 and 12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kataoka. Kataoka shows an apparatus for weighing articles, such as pickles, fish, vegetables, and other articles that are easily damaged. It includes a support structure (22) and receptacles (27) having an open top end, a pivot connection (28), and pivot actuators (for automatic

tilting; see column 4, lines 23-26) for rotating the receptacles in a controlled manner for emptying. The claimed article to be handled, grapes, is not given any patentable weight, as the apparatus of Kataoka has all the claimed structural limitations. Alternatively, it would have been obvious to one of ordinary skill in this art to use the weighing apparatus and method of Kataoka for weighing grapes. Kataoka has plural receptacles with pairs in opposing configurations, as recited in claims 6 and 7. The articles are indirectly delivery to the receiving receptacle (through the weighing hoppers 23), as recited in claim 8. The automatic tilting of the receptacles empties them at a desired rate, as recited in claim 9, and sequentially, as recited in claim 10. The receiving receptacle is a conveyor, as recited in claim 12.

9. Claims 1-6, 8, 12, 13, 15-19, and 22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over SU 619425. SU '425 shows a fruit container discharge system including a support frame, for pivoting receptacles. A collar grips each receptacle, as recited in claims 2, 5, 13 and 19, and a pair of hydraulic cylinders (12) pivot them, as recited in claims 3, 4 and 22.. The receptacles tip their contents into a common region, as broadly recited in claim 6. The tipping is in a controlled manner, as recited in claim 8, as this also is a broad or relative term. Its receiving receptacle is a conveyor, as recited in claim 12. The support frame has legs below the receptacles, as recited in claim 15, a gantry, as recited in claim 16, a pour guide (13), as recited in claim 17, and can be secured to the ground or supporting surface, as recited in claim 18. There are two support frames, one for each receptacle. The support frames can be considered as opposed, even though the receptacles are not, as recited in claim 19.

10. Claims 1, 3, 4, 8, 9 and 12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lilley. Lilley shows an apparatus and a method for the emptying of a receptacle including a support structure (2, 4, 9), a receptacle (3) having a pivot connection (6), and actuators (7-10) for rotating the receptacle for emptying in a controlled manner. The claimed article to be handled, grapes, is not given any patentable weight, as the apparatus of Lilley has all the claimed structural limitations and method steps. Alternatively, it would have been obvious to one of ordinary skill in this art to use the weighing apparatus and method of Lilley for handling grapes. Lilley has a pair of hydraulic actuators, as recited in claims 3 and 4. The controlled manner of tilting the receptacle includes

tilting in steps, see column 5, lines 6-11, as recited in claim 9. Its receiving receptacle is a conveyor, as recited in claim 12.

11. Claims 2, 5, 13, 15, 16, 18 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lilley in view of McKenzie et al. Lilley shows the basic claimed apparatus for emptying receptacles, but varies from claim 13 by not having the receptacle secured to the gantry via collar. McKenzie et al shows a similar weighing system which uses collars (85) for mounting the receptacles for removal for cleaning and maintenance. It would have been obvious to one of ordinary skill in the art to modify the emptying apparatus of Lilley by forming the receptacle as to be mounted by a collar, for easy removal from the apparatus, as taught by McKenzie et al. The gantry of Lilley has legs just point of balance for the receptacle, as recited in claim 15, and a portion (11) just below the top of the receptacle, as recited in claim 16, and is securable to the ground or equivalent support, as recited in claim 18. Lilley has a pair of hydraulic actuators, as recited in claim 22.

12. Claims 2 and 13-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kataoka, as applied above to claim 1, in view of McKenzie et al. Kataoka shows the basic claimed gantry apparatus for emptying weighing receptacles, but varies from claims 2 and 13 by not having the receptacles secured to the gantry via collars. McKenzie et al shows a similar weighing system which uses collars (85) for mounting the receptacles for removal for cleaning and maintenance. It would have been obvious to one of ordinary skill in the art to modify the emptying apparatus of Kataoka by forming the receptacles as to be mounted by collars, for easy removal from the apparatus, as taught by McKenzie et al. The gantry of Kataoka has catwalks (31), as recited in claims 14 and 21, and legs, as recited in claim 15. It extends just below the receptacles, as recited in claims 16 and 20; note that "just" is a relative term. Kataoka has weighing hoppers (23) which are pouring guides, as well as a funnel shape below the weighing hoppers, which also forms a pouring guide, as recited in claims 17 and 20. The gantry is securable to the ground or equivalent support, as recited in claim 18.


13. Claims 3, 4, 9, and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kataoka in view of Lilley. Kataoka shows the basic claimed gantry apparatus for emptying weighing receptacles, but varies from the claims not specifying how the receptacles are tilted, as to use a pair of spaced hydraulic

cylinders. However this is a common tilting arrangement. Lilley shows a similar tipping bin with cylinders at each end of the bin for controlled tipping. It would have been obvious to one of ordinary skill in the art to use hydraulic cylinders as the tilting actuator of Kataoka, for accurate controlled emptying of the receptacles, as taught by Lilley.

14. Claims 5 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kataoka in view of McKenzie et al, as applied above to claim 13, and further in view of Lilley. Kataoka, as modified, shows the basic claimed gantry apparatus for emptying weighing receptacles, but varies from claim 22 by not specifying how the receptacles are tilted, as to use a pair of spaced hydraulic cylinders. However this is a common tilting arrangement. Lilley shows a similar tipping bin with cylinders at each end of the bin for controlled tipping. It would have been obvious to one of ordinary skill in the art to use hydraulic cylinders as the tilting actuator of Kataoka, for accurate controlled emptying of the receptacles, as taught by Lilley.

15. Maurin and Alber et al are cited as showing grape processing apparatuses.

16. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

  
THOMAS J. BRAHAN  
PRIMARY EXAMINER